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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,104	12/02/2003	Klaus Eschenroeder	13913-120001 / 2003P00250	4399

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EXAMINER	
CAO, DIEM K	

ART UNIT	PAPER NUMBER
2194	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/727,104	ESCHENROEDER ET AL.	
	Examiner	Art Unit	
	Diem K. Cao	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-22 are pending. Applicant has amended claims 1, 10, 14, 15, 18 and 19.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Bendiksen et al (U.S. 2006/0085798 A1).

As to claim 1, Bendiksen teaches a computer program product, tangibly embodied in a machine-readable storage device, the computer program product comprising instructions operable to cause data processing apparatus to perform operations comprising (page 1, paragraph 2):

receiving process data items (an event entry represents the captured state of a function call collected on one of the sensors 14 in the system; page 4, paragraph 60), each process data item being associated with a component (user application 16, associated sensor 14; page 3, paragraph 50) of a plurality of components operating in a distributed computer system and executing a sequence of related steps specifying a process (units of work, transaction; page 7, paragraphs 107-110 and process the mortgage requests, credit check application, tax assessment

application, etc; page 8, paragraph 114), the process being separate and independent from the computer program product (process the mortgage request, and analyzer monitoring environment; page 3, paragraph 47), each process data item being part of a respective process data stream and having been collected by an agent without altering the process data stream (the sensor generates the event, function call parameters to be sent; page 3, paragraphs 53-55),

for each process data item, identifying a corresponding process instance with which the process data item is associated, the corresponding process instance being a single execution of a corresponding process (group events into related transactions, either within a single thread of execution and unit of work; page 7, paragraph 107 and 111),

grouping the process data items that are associated with a process instance into a first group (The list of events that make up the UOW can be displayed to the user for analysis; page 8, paragraph 111), and

generating a reconstruction of the first process instance based on the process data items in the first group (Another view is referred to as dynamic transaction visualization, where transactions are shown; page 9, paragraphs 122-123).

As to claim 2, Bendiksen teaches modeling a process based on the reconstruction of the first process instance (In some cases the amount of captured data may be make dynamic, e.g., as a function of the current environment or operating state of the system/processor being monitored; page 3, paragraph 56).

As to claim 3, Bendiksen teaches monitoring the first process instance based on the construction of the first process instance (In some cases the amount of captured data may be make dynamic, e.g., as a function of the current environment or operating state of the system/processor being monitored; page 3, paragraph 56).

As to claim 4, Bendiksen teaches wherein the process data items are collected by the agent upon the occurrence of a predetermined condition (these rules determine the conditions which trigger event generation/reporting, as well as amount of information to be collected, the sensor 14 determines if any of the existing filter rules match the current program state ... generate the event; page 3, paragraphs 53-54), and wherein monitoring the first process instance comprises modifying the predetermined condition (The amount of information ... rule specification; page 3, paragraph 55, and In some cases the amount of captured data may be make dynamic, e.g., as a function of the current environment or operating state of the system/processor being monitored; page 3, paragraph 56).

As to claim 5, Bendiksen teaches wherein the process data items have a first type (standard or technology neutral event information 318; page 4, paragraph 60), and wherein monitoring the first process instance further comprises specifying a second type of process data item for the agent to collect (technology specific event information 320; page 4, paragraphs 60-61).

As to claim 6, Bendiksen teaches wherein the agent is associated with a first tracking point (an application makes a function call belonging to the set of functions monitored by the associated sensor 14; page 3, paragraph 52), and wherein monitoring the first process instance further comprises specifying a second tracking point with which to associated the agent (It is also possible to repeat steps ... the stand API call returns control to the sensor 14, in order to generate an event representing the post-call state; page 3, paragraph 57).

As to claim 7, Bendiksen teaches wherein the agent is associated with a first tracking point (an application makes a function call belonging to the set of functions monitored by the associated sensor 14; page 3, paragraph 52), and wherein monitoring the first process instance further comprises specifying a second tracking point with which to associate a second agent (and the server receiving the message will similarly do so within a second local transaction; page 7, paragraphs 107 and110).

As to claim 8, Bendiksen teaches wherein the operations further comprise generating a reconstruction of a second process instance based on the process data items in a second group, and wherein modeling the process is further based on the reconstruction of the second process instance (events associated with a single unit of work, i.e. local transaction of a business transaction; pages 7-8, paragraphs 110-111).

As to claim 9, Bendiksen teaches wherein the operations further comprises:

receiving additional process data items, each additional process data item having been collected by a second agent (an event entry represents the captured state of a function call collected on one of the sensors 14 in the system; page 4, paragraph 60 and inherent form multiple applications in a business process, each has its own local transaction/event collected by associated agent; page 8, paragraph 114 and page 9, paragraph 119),

for each additional process data item, identifying a process instance with which the additional process data item is associated (group events into related transactions, either within a single thread of execution and unit of work; page 7, paragraph 107 and 111 and inherent from multiple applications in a business process, each has its own local transaction/event collected by associated agent; page 8, paragraph 114 and page 9, paragraph 119), and

grouping the additional process data items that are associated with the first process instance with the first group (the operation of the analyzer transaction correlation function at a higher, i.e. business transaction, level; page 8, paragraph 112).

As to claim 10, Bendiksen teaches a computer product, tangibly embodied in a machine-readable storage device, the computer program product comprising instructions operable to cause data processing apparatus to perform operations comprising (page 1, paragraph 2):

receiving a specification of a predetermined condition (each configuration message ... rules ... event data package; page 3, paragraphs 53 and 55),

upon the occurrence of the predetermined condition (the sensor 14 determines ... if there is a matching event; page 3, paragraph 54), collecting process data items (an event entry represents the captured state of a function call collected on one of the sensors 14 in the system;

page 4, paragraph 60), each process data item being associated with a component (user application 16, associated sensor 14; page 3, paragraph 50) of a plurality of components operating in a distributed computer system and executing a sequence of related steps specifying a process (units of work, transaction; page 7, paragraphs 107-110 and process the mortgage requests, credit check application, tax assessment application, etc; page 8, paragraph 114), the process being separate and independent from the computer program product (process the mortgage request, and analyzer monitoring environment; page 3, paragraph 47), each process data item being part of a respective process data stream and having been collected by an agent without altering the process data stream (the sensor generates the event, function call parameters to be sent; page 3, paragraphs 53-55),

transferring the process data items to a central system (The sensor 14 ... with the analyzer 12; page 3, paragraph 51) operable to reconstruct a corresponding process instance based on the process data items (Another view is referred to as dynamic transaction visualization, where transactions are shown; page 9, paragraphs 122-123), the process instance being single execution of the process (inherent from this is a running distributed application; page 8, paragraph 114).

As to claim 11, Bendiksen teaches wherein the operating of collecting the process data items occurs without modifying the component (this process is conducted in a non-intrusive manner and does not require any additional recompilation or relinking of the user application; page 3, paragraph 48).

As to claim 12, Bendiksen teaches receiving a specification of a second predetermined condition (This management function … messages, removing expired messages, and retrieving newly arrived messages, each configuration message contains a set of data collection filter rules; page 3, paragraph 53), and upon the occurrence of the second predetermined condition, collecting additional process data items associated with the component (the sensor 14 determines .. generates the event; page 3, paragraphs 54-55).

As to claim 13, Bendiksen teaches receiving a specification of a second component (inherent from multiple applications in a business process, each has its own local transaction/event collected by associated agent; page 8, paragraph 114 and page 9, paragraph 119 and This management function … messages, removing expired messages, and retrieving newly arrived messages, each configuration message contains a set of data collection filter rules; page 3, paragraph 53), upon the occurrence of another predetermined condition, collecting other process data items associated with the second component, and transferring the other process data items to the central system (the sensor 14 determines .. generates the event; page 3, paragraphs 54-55).

As to claim 14, see rejection of claim 1 above. Bendiksen further teaches using an agent to collect process data item (the sensor 14 determines if any of the existing filter rules match the current program state … generate the event; page 3, paragraphs 53-54), and transferring the process data items from the agent to a central system (The sensor 14 … with the analyzer 12; page 3, paragraph 51), the process being separate and independent from the central system

(analyzer monitoring environment; page 3, paragraph 47 vs. business transaction; page 8, paragraph 113).

As to claim 15, it is the same as product claim of claim 1 except this is a method claim, and is rejected under the same ground of rejection.

As to claims 16-17, see rejections of claims 2-3 above.

As to claim 18, it is the same as product claim of claim 10 except this is a method claim, and is rejected under the same ground of rejection.

As to claim 19, it is the same as product claim of claim 1 except this is an apparatus claim, and is rejected under the same ground of rejection.

As to claims 20-21, see rejections of claims 2-3 above.

As to claim 22, it is the same as product claim of claim 10 except this is a method claim, and is rejected under the same ground of rejection.

Response to Arguments

4. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diem K. Cao whose telephone number is (571) 272-3760. The examiner can normally be reached on Monday - Friday, 8:30AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC
October 11, 2007

Diem Cao